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Via Electronic Filing and First-Class Mail

Josh Mingos
Hearing Officer
Public Service Commission of South Carolina
Post Office Drawer 11649
Columbia, SC 29211

**Re: Ecoplexus, Inc. vs. Dominion Energy South Carolina, Inc.
Docket No. 2019-130-E**

Dear Mr. Mingos:

I am writing on behalf of Dominion Energy South Carolina, Inc. (f/k/a South Carolina Electric & Gas Company) ("DESC") to provide an update, pursuant to your request, on the status of the Docket No. 2019-130-E.

By way of background, Ecoplexus, Inc. ("Ecoplexus") filed a Complaint and Motion to Maintain Status Quo (the "Ecoplexus Motion") in the above-referenced docket on April 15, 2019. DESC responded to each of these filings¹ and also filed DESC's Motion for Judgment on the Pleadings and to Dismiss on May 15, 2019 (the "Motion to Dismiss"). The Public Service Commission of South Carolina (the "Commission") heard oral arguments on the Ecoplexus Motion on June 27, 2019.² As a result, the Commission ordered that Ecoplexus and DESC engage in settlement talks and submit "briefs regarding the [Ecoplexus Motion] by August 9, 2019," if the parties were unable to settle. Order No. 2019-541.

DESC and Ecoplexus engaged in settlement talks, but did not reach a settlement. As such, (a) DESC submitted the requested briefs in the form of a Proposed Order and (b) Ecoplexus submitted a briefing on the Ecoplexus Motion, in each case, on August 9, 2019. To date, the Complaint, the Ecoplexus Motion, and the Motion to Dismiss remain pending before the Commission. Although DESC and Ecoplexus continue to engage periodically in the settlement discussions that were initiated pursuant to Order No. 2019-541, the parties remain unable to come to an agreement on the disputed matters.

¹ DESC filed (i) a Response in Opposition to the Ecoplexus Motion on April 24, 2019, and (ii) an Answer on May 15, 2019.

² The hearing addressed common issues arising from the Ecoplexus Motion and two Motions to Maintain Status Quo filed by other solar developers. Those two other motions have been withdrawn.

Before requiring the parties to pre-file testimony and entertaining a hearing on the merits, DESC respectfully requests that the Commission (a) issue a ruling on the Motion to Dismiss—particularly since the purpose of such a motion is to ensure that the parties do not continue to incur costs associated with litigating a complaint that does not contain (i) facts sufficient to constitute a cause of action³ or (ii) a single issue of fact that would entitle the complainant to relief if resolved in its favor;⁴ and (b) if necessary, address the pending Ecoplexus Motion.

Please do not hesitate to contact me should you have any questions.

Sincerely,



J. Ashley Cooper

JAC:hmp

cc: (Via Electronic Mail and First Class Mail)

Jenny R. Pittman, Esquire

Jeremy C. Hodges, Esquire

Weston Adams III, Esquire

³ *Baird v. Charleston Co.*, 511 S.E.2d 69 (S.C. 1999) (A defendant may move for dismissal when the complainant does not allege “facts sufficient to constitute a cause of action”).

⁴ *Sapp v. Ford Motor Co.*, 687 S.E.2d 47 (S.C. 2009) (“A judgment on the pleadings is proper where there is no issue of fact raised by the complaint that would entitle plaintiff to judgment if resolved in plaintiff’s favor”).